

OFFICE OF CONTRACTING AND PROCUREMENT**NOTICE OF EMERGENCY RULEMAKING**

The Chief Procurement Officer of the District of Columbia (“CPO”), pursuant to authority granted by sections 202, 204, and 804 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §§ 2-302.02, 2-302.04, and 2-308.04 (2006 Repl. and 2009 Supp.)) (“PPA”), and Mayor’s Order 2002-207 (dated December 18, 2002), and consistent with the Debarment and Suspension Procedures Amendment Act of 2009, effective October 22, 2009 (D.C. Law 18-62; 56 DCR 6599), hereby gives notice of the adoption of the following emergency rules to amend Chapter 22 (Contractors) of Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations. The rulemaking will amend certain provisions of Chapter 22 concerning procedures for debarring or suspending a person or business from consideration for an award of District contracts or subcontracts.

Identical emergency rules were adopted on February 24, 2010, and published in the *D.C. Register* on March 12, 2010, at 57 DCR 2114; proposed final rules were also published with the emergency rules. Those emergency rules expired on June 24, 2010.

Without these emergency rules, the regulatory procedures of the Office of Contracting and Procurement for the debarment and suspension of persons or businesses will be inconsistent with the PPA, and this inconsistency may create legal uncertainty regarding debarment and suspension actions. Adoption of these emergency rules to amend Chapter 22 is thus necessary for the immediate preservation of the public safety and welfare, in accordance with District law as codified at D.C. Official Code § 2-505(c) (2001).

These emergency rules were adopted on July 6, 2010 and became effective on that date. They will remain in effect for up to one hundred twenty (120) days after the date of adoption or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first. The CPO has submitted the rules to the Council of the District of Columbia for a sixty (60) day period of review pursuant to section 205(b) of the PPA (D.C. Official Code § 2-302.05(b)), and will take final rulemaking action upon completion of the sixty (60)-day review period or when the Council approves the rules by resolution before the end of the review period.

Chapter 22 (Contractors) of Title 27 (Contracts and Procurement) of the DCMR is amended as follows:

A. Section 2218 is rescinded in its entirety and replaced with the following:

2218 MAINTENANCE OF DEBARMENT AND SUSPENSION RECORDS

2218.1 The Director shall keep and maintain a case docket of current debarment and suspension proceedings under the Director’s jurisdiction, copies of the Director’s decisions and final orders, and copies of the Director’s rules. The case docket shall be updated monthly and shall provide the names of the persons or businesses proposed for debarment or suspension, the case number, the date the Director received the

recommendation for debarment or suspension, and the date of any scheduled hearing on the merits of the debarment or suspension. The case docket and copies of decisions, final orders, and the Director's rules shall be available for inspection by the public at the Office of Contracting and Procurement.

B. Section 2214.1(c) is amended to read as follows:

- (c) That, within fifteen (15) calendar days after receipt of the notice, the person or business may submit, in person, in writing, or through a representative, information and argument in opposition to the proposed debarment, including any additional specific information that raises a genuine issue of material fact;

C. Section 2299.1 is amended by deleting the definitions of "Debarment and Suspension Panel" and "Ex parte communications".